

LUCAS GUTTENTAG (CSB #90208)  
CECILLIA D. WANG (CSB #187782)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
IMMIGRANTS' RIGHTS PROJECT  
39 Drumm Street  
San Francisco, CA 94111  
Telephone: (415) 343-0775  
Facsimile: (415) 395-0950  
Email: CWang@aclu.org

Attorneys for Plaintiffs  
(Additional counsel listed on following page)

KEVIN V. RYAN  
United States Attorney  
ILA C. DEISS  
Assistant United States Attorney  
450 Golden Gate Avenue, Box 36055  
San Francisco, CA 94102  
Telephone: (415) 436-7124  
Facsimile: (415) 436-7169

Attorneys for Defendants

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

AMERICAN CIVIL LIBERTIES UNION;  
BRONX DEFENDERS, INC.; NATIONAL  
IMMIGRATION LAW CENTER; and  
NATIONAL IMMIGRATION PROJECT OF  
THE NATIONAL LAWYERS GUILD,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY and UNITED  
STATES DEPARTMENT OF JUSTICE,

Defendants.

Case No. C-06-4129-WHA

**STIPULATION AND PROPOSED  
ORDER OF DISMISSAL**

Judge: Hon. William H. Alsup

Additional Plaintiffs' counsel:

ALAN L. SCHLOSSER (CSB #49957)  
JULIA HARUMI MASS (CSB #189649)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF NORTHERN CALIFORNIA  
39 Drumm Street  
San Francisco, CA 94111  
Telephone: (415) 621-2493  
Facsimile: (415) 255-1478

MICHAEL J. WISHNIE\*  
JEROME N. FRANK LEGAL SERVICES ORGANIZATION  
Yale Law School  
127 Wall Street  
New Haven, CT 06511  
(203) 432-4800

MARC VAN DER HOUT (CSB #80778)  
ILYCE SHUGALL\*\*  
STACY TOLCHIN (CSB #217431)  
VAN DER HOUT, BRIGAGLIANO &  
NIGHTINGALE, LLP  
180 Sutter Street, Fifth Floor  
San Francisco, CA 94104  
Telephone: (415) 981-3000  
Facsimile: (415) 981-3003  
Email: ndca@vblaw.com

\*Application for admission *pro hac vice* pending

\*\*Application for admission *pro hac vice* forthcoming

1 WHEREAS, the parties to this matter have been engaged in efforts to avoid  
2 needless litigation of Plaintiffs' claims under the Freedom of Information Act, 5 U.S.C. §  
3 552, and have reached a mutually satisfactory resolution,

4 THEREFORE, the parties to the above-captioned action hereby stipulate as  
5 follows:

6 1. The parties have concluded that this matter may be resolved fully if the  
7 following conditions are met within 45 days of the Court's signing of the proposed order  
8 attached to this Stipulation:

9 2. Defendant U.S. Department of Homeland Security (DHS) shall select at  
10 random:

- 11 a. 1,000 removal cases commenced by the U.S. Immigration and  
12 Customs Enforcement ("ICE") or Immigration and Naturalization  
13 Service ("INS") by Notice to Appear ("NTA") or other charging  
14 document issued between January 1, 2000, and July 9, 2003, in which  
15 the respondent had been convicted of a sexual offense on or before the  
16 date the charging document was issued (or if the number of such cases  
17 is less than 1,000, the maximum number available) ("Category 1");
- 18 b. 1,000 removal cases in which the respondent was arrested pursuant to  
19 the law enforcement initiative known as "Operation Predator," from  
20 among such cases commenced by ICE by NTA or other charging  
21 document issued between July 10, 2003, and December 31, 2006 (or if  
22 the number of such cases is less than 1,000, the maximum number  
23 available) ("Category 2");
- 24 c. 1,000 removal cases commenced by INS or ICE by NTA or other  
25 charging document issued between January 1, 2000 and July 9, 2003  
26 (or if the number of such cases is less than 1,000, the maximum  
27 number available) ("Category 3"); and
- 28 d. 1,000 removal cases commenced by INS or ICE by NTA or other

charging document issued between July 10, 2003, and December 31, 2006 (or if the number of such cases is less than 1,000, the maximum number available) ("Category 4").

3. For each case randomly selected in Categories 1-4 as set forth in paragraph 2 above, DHS and the U.S. Department of Justice (DOJ) shall collectively provide to Plaintiffs the following information, in electronic format:

- a. form(s) of relief sought by respondent, if any
- b. disposition of application(s) for relief by Immigration Judge, if any
- c. whether respondent or government filed an appeal to the BIA;
- d. disposition of appeal by BIA, if any
- e. gender of respondent
- f. country of origin of respondent, as alleged in charging document
- g. ground(s) of deportability alleged in charging document
- h. whether respondent was represented by counsel before the Immigration Judge
- i. whether respondent was represented by counsel before the BIA, if any appeal was taken
- j. location of Immigration Court where proceedings were commenced
- k. location of Immigration Court where proceedings were concluded

The parties recognize that Defendants maintain the foregoing data in various units of DHS and DOJ, and that fulfilling these conditions will require coordination among those units. Defendants agree to provide the requested information in the specified format or, in the event that the precise format is not available, to provide the best possible equivalent.

4. Plaintiffs stipulate that if the foregoing conditions are met, this matter shall be deemed dismissed with prejudice, and without an award of attorneys' fees for any work done by Plaintiffs' counsel through the signing of the Proposed Order, immediately upon the Court's signing of the attached Proposed Order, subject to

paragraph 6 below.

5. Plaintiffs stipulate and agree that they will not submit a future request under FOIA to Defendants seeking the information that is the subject of this case.

6. The Court shall maintain jurisdiction of this matter solely to monitor and enforce if necessary the parties' compliance with the terms of this stipulation. Any future application for attorneys' fees based on any action to enforce the provisions of this Agreement may not be predicated upon any acts of the defendants or findings of this Court that occurred prior to the signing of the Proposed Order by the Court.

SO STIPULATED.

LUCAS GUTTENTAG  
CECILLIA D. WANG  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
IMMIGRANTS' RIGHTS PROJECT  
39 Drumm Street  
San Francisco, CA 94111  
Telephone: (415) 343-0775  
Facsimile: (415) 395-0950

Dated: February 28, 2007

By: 

CECILLIA D. WANG

Attorneys for Plaintiffs

1 KEVIN V. RYAN  
2 United States Attorney  
3 ILA C. DEISS  
4 Assistant United States Attorney  
5 United States Attorney's Office  
6 for the Northern District of California  
7 450 Golden Gate Avenue, Box 36055  
8 San Francisco, CA 94102  
9 Telephone: (415) 436-7124  
10 Facsimile: (415) 436-7169

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Dated: February 28, 2007

By: 

ILA C. DEISS

Attorneys for Defendants

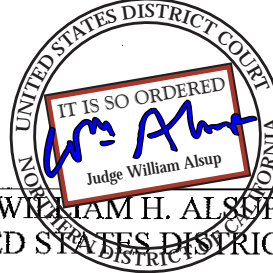
**ORDER**

Based upon the stipulation of the parties, the Court hereby ORDERS as follows:

1. This matter is DISMISSED WITH PREJUDICE as of the date of this order, and all pending briefing schedules and hearings are hereby removed from the Court's calendar;
2. Defendants shall fulfill the conditions set forth in the parties' attached Stipulation within 45 days of the signing of this Order;
3. The Court will maintain jurisdiction of this matter solely to monitor the parties' compliance with the terms of this Order of Dismissal With Prejudice.

SO ORDERED.

March 1,  
Dated: ~~February~~ \_\_, 2007



HON. WILLIAM H. ALSUP  
UNITED STATES DISTRICT JUDGE

The Court shall retain jurisdiction of this matter for 45 days after the date of this order.